CHAPTER 17 – BOARD OF DIETETICS/NUTRITION

SECTION .0100 – LICENSURE

21 NCAC 17 .0101 DEFINITIONS, ACRONYMS, AND INITIALISMS

(a) As used in this Chapter, the following terms shall mean:

(1) "Act" means Dietetics/Nutrition Practice Act in Article 25 of Chapter 90 of the General Statutes.

(2) "Applicant" means any person who has applied to the Board for a license to lawfully do any of the acts listed under G.S. 90-365(a).

(3) "Application" means a written request directed to and received by the Board, on forms supplied by the Board, for a license to lawfully do any of the acts listed under G.S. 90-365(a), together with all information, documents, and other materials necessary to demonstrate that the applicant has met the requirements for licensure as specified in the Act.

(4) "Degree" means a degree received from a college or university that was regionally accredited at the time the degree was conferred, or a validated foreign equivalent.

(5) "Dietitian/nutritionist" or "nutritionist" means one engaged in dietetics or nutrition practice.

(6) "Health care practitioner" includes any individual who is licensed under G.S. 90 and whose licensed scope of practice includes dietetics or nutrition.

(7) "Nutrition assessment" means:

(A) the initial and ongoing, dynamic, and systematic process of obtaining, verifying, and interpreting biochemical, anthropometric, physical, nutrigenomic, clinical, and dietary data to determine nutritional needs and order therapeutic diets, including enteral and parenteral nutrition;

(B) the ordering of laboratory tests related to the practice of nutrition and dietetics; and

(C) the conducting of a swallow screen.

(D) The collection of data does not, by itself, constitute nutrition assessment.

(8) "Nutrition counseling" means the advice and assistance provided to individuals or groups on nutrition intake by integrating information from the nutrition assessment with information on food and other sources of nutrient and meal preparation consistent with therapeutic needs and cultural background, which shall include ethnicity, race, language, religious and spiritual beliefs, education, and socioeconomic status.

(9) "Nutrition education" means a formal process to instruct or train a client, patient, or population group in a skill or to impart knowledge to help clients, patients, or population groups voluntarily manage or modify food, nutrition, and physical activity choices and behavior to maintain or improve health.

(10) "Nutrition intervention" means planned actions and nutrition counseling by a provider of nutrition care, intended to improve a nutrition-related behavior, risk factor, environmental condition, or aspect of the health status, consistent with therapeutic needs and cultural background.

(11) "Nutrition monitoring or evaluation" means regular re-evaluation of the nutrition care treatment and prevention plan, which may include review of clinical research and standards of care, to compare the outcomes with the patient's previous health status, intervention goals, or reference standards to determine the progress made in achieving desired outcomes of nutrition care and whether planned interventions should be continued or revised.

(12) "Nutrition services" for purposes of G.S. 90-357.5(c)(2) means the provision of nutrition assessments, nutrition intervention, education, counseling, or management, and nutrition monitoring or evaluation.

(13) "Swallow screen" means a minimally invasive evaluation procedure conducted by a licensed dietitian/nutritionist that provides for the determination of:

(A) the likelihood that dysphagia exists;

(B) whether the patient requires referral for further swallowing assessment;

(C) whether it is safe to feed the patient orally for the purposes of nutrition, hydration, and administration of medication; and

(D) whether the patient requires referral for nutritional or hydrational support.

(14) "Alternate supervised experiential learning" means observational hours that do not involve direct patient or client care or the discussion thereof. Such hours are limited to: observing videos of

client and practitioner interactions; shadowing an experienced clinician; participating in simulation exercises or role playing; or utilizing case studies to prepare treatment plans.

(15) "Direct supervised experiential learning" means nutrition care services provided for the benefit of patients or clients. Such hours are limited to: counseling individuals and groups; researching and developing patient or client treatment plans for current patients or clients; researching, preparing, and presenting patient or client workshops; community education involving development and delivery of education to a specific population; supervisor grand rounds and one-on-one meetings with one's supervisor to discuss current patient or client care; or direct hours approved as part of a programmatically accredited supervised practice program.

(16) "Therapeutic diet" means a nutrition intervention prescribed by a physician or other authorized non-physician practitioner that provides food, fluid, or nutrients via oral, enteral, or parenteral routes as part of treatment of disease or clinical conditions to modify, eliminate, decrease, or increase identified micronutrients and macronutrients in the diet, or to provide mechanically altered food when indicated.

(17) "Weight control services" as used in G.S. 90-368(7) means a general program of instruction with food, supplements, food products, or a food plan designed for one or more healthy population groups in order to achieve or maintain a healthy weight. A weight control program is not individualized to provide medical nutrition therapy as defined in G.S. 90-352(3a) or nutrition care services as defined in G.S. 90-352(4) to manage or treat a medical condition for a specific person or group.

(b) As used in this Chapter, the following acronyms and initialisms shall mean:

(1) "ACBN" means the American Clinical Board of Nutrition, whose Diplomate of the American Clinical Board of Nutrition credential is accredited by the National Commission for Certifying Agencies.

(2) "ACEND" means the Accreditation Council for Education in Nutrition and Dietetics.

(3) "AND" means the Academy of Nutrition and Dietetics.

(4) "BCNS" means the Board for Certification of Nutrition Specialists, whose Certified Nutrition Specialist credential is accredited by the National Commission for Certifying Agencies.

(5) "CDR" means the Commission on Dietetic Registration, whose Registered Dietitian Nutritionist credential is accredited by the National Commission for Certifying Agencies.

(6) "LDN" means licensed dietitian/nutritionist.

(7) "LN" means licensed nutritionist.

(8) "PLDN" means provisionally licensed dietitian/nutritionist.

(9) "PLN" means provisionally licensed nutritionist.

History Note: *Authority G.S. 90-352; 90-356;*
Temporary Adoption Eff. March 19, 1992 for a period of 180 days to expire on September 13, 1992;
Eff. June 1, 1992;
Recodified from 21 NCAC 17 .0001 Eff. February 1, 1995;
Amended Eff. December 1, 2011; April 1, 2010; July 18, 2002; March 1, 1996;
Readopted Eff. December 1, 2019;
Amended Eff. March 15, 2023.

21 NCAC 17 .0102 REQUIREMENT OF LICENSE

History Note: *Authority G.S. 90-352; 90-356;*
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Recodified from 21 NCAC 17 .0002 Eff. February 1, 1995;
Amended Eff. March 1, 1996;
Repealed Eff. July 18, 2002.

21 NCAC 17 .0103 QUALIFICATIONS FOR LICENSURE

Each applicant for an initial license as a licensed dietitian/nutritionist shall meet the qualifications as set forth in G.S. 90-357.5(a) and the rules of this Chapter. Each applicant for an initial license as a licensed nutritionist shall meet the qualifications as set forth in G.S. 90-357.5(c) and the rules of this Chapter.

History Note: *Authority G.S. 90-356; 90-357;*
Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13, 1992;
Eff. June 1, 1992;
Recodified from 21 NCAC 17 .0003 Eff. February 1, 1995;
Amended Eff. December 1, 2011; July 18, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;
Amended Eff. March 15, 2023.

21 NCAC 17 .0104 APPLICATIONS

(a) Each applicant for initial licensure shall file a completed application with the Board. Application forms are available at www.ncbdn.org.

(b) A complete application shall be:

(1) typed;

(2) signed by the applicant affirming that the information on the application is true and releasing to the Board information pertaining to the application;

(3) accompanied by the application, issuance, and criminal history record check fees; and

(4) accompanied by evidence, statements, or documents demonstrating the applicant meets the applicable requirements specified in G.S. 90-357.5 and this Rule and the applicant is not in violation of G.S. 90-363.

(c) Applicants shall submit a completed application to the North Carolina Board of Dietetics/Nutrition via its website at www.ncbdn.org.

(d) The Board shall not review an application until the applicant pays the application fee. The fee may be paid online via credit card, or by check or money order mailed to: North Carolina Board of Dietetics/Nutrition, 1135 Kildaire Farm Road, Suite 200, Cary, NC 27511.

(e) Examination information for each of the examinations the Board recognizes may be found on the following websites:

(1) Information regarding the Registered Dietitian Nutritionist examination offered by the Commission on Dietetic Registration may be found at: https://www.cdrnet.org/program-director/student-instructions.

(2) Information regarding the Certified Nutrition Specialist examination offered by the Board for Certification of Nutrition Specialists may be found at: https://theana.org/certify/CNScandidate.

(3) Information regarding the Diplomate of the American Clinical Board of Nutrition examination offered by the American Clinical Board of Nutrition may be found at: https://www.acbn.org/apply.

(f) Before cancelling an application, the Executive Director shall send notice to an applicant who does not complete the application that lists the additional materials required. An incomplete application shall be valid for a period of four months from the date the application is filed with the Board. Four months after submission of an application, if the application and any required documentation has not been completed by the applicant, the application shall be considered cancelled due to failure to complete. Complete applications that the Board determines require additional evidence under Paragraph (m) of this Rule shall be eligible for consideration for the timeline set forth in that Paragraph.

(g) Applicants providing evidence of current registration as a Registered Dietitian Nutritionist by the CDR in G.S. 90-357.5(a)(2) shall submit a photocopy of the applicant's registration identification card, or a copy of a CDR Credential Verification certificate certifying that the applicant is a Registered Dietitian Nutritionist.

(h) Applicants providing evidence of completing academic requirements in G.S. 90-357.5(a)(1) shall either:

(1) Submit transcripts and a verification statement that includes the original signature of the Program Director of a college or university where the course of study was accredited by the ACEND as meeting the competency requirements of the most current edition of the Accreditation Standards for Nutrition and Dietetic Didactic Programs; or

(2) Submit documentation, including official transcripts, demonstrating the course of study met the competency requirements of the most current edition of the ACEND Accreditation Standards for

Nutrition and Dietetic Didactic Programs, which is hereby incorporated by reference. Copies of these standards may be obtained at no charge from ACEND's website at: https://www.eatrightpro.org/acend/accreditation-standards-fees-and-policies/2022-standards-and-templates.

(i) Applicants providing evidence of completing academic requirements in G.S. 90-357.5(c) shall submit documentation, including official transcripts, demonstrating completion of the requirements stated in G.S. 90-357.5(c)(1).

(j) Applicants providing evidence of completing a Board-approved internship or documented, supervised practice experience in G.S. 90-357.5(a)(1)(b) shall either:

(1) Submit a verification statement that includes the original signature of the Program Director of a documented, supervised practice experience that has been accredited by the ACEND as meeting the competency requirements of the most current edition of the Accreditation Standards for Nutrition and Dietetics Internship Programs; or

(2) Submit documentation demonstrating at least 1000 hours of documented, supervised practice experience, meeting the competency requirements of the most current edition of the Accreditation Standards for Nutrition and Dietetics Internship Programs issued by ACEND. The scope of activities may include alternate supervised experiential learning such as simulation, case studies, and role playing, but must also include at least 750 hours of direct supervised experiential learning. The 1000 hours must be concurrent with or following completion of the academic requirements for licensure and need not be a paid experience.

(k) The following shall be necessary for applicant's submitting proof of completion of a Board-approved internship or a documented, supervised practice experience in nutrition services under Subparagraph (j)(2) of this Rule;

(1) If there shall be more than one supervisor or facility for different parts of the supervised practice experience, information and verification of each part, as provided in Subparagraphs (2) and (3) of this Paragraph, is required.

(2) The applicant shall provide to the Board for each supervisor/facility:

(A) the name and address of the facility providing the supervised practice experience;

(B) the name, address, phone, and title of the supervisor who supervised the supervised practice experience;

(C) a summary of nutrition services performed, along with dates and hours spent performing them;

(D) evidence that the supervisor met the requirements stated in G.S. 90-357.5(a)(1)(b) at the time of supervision; and

(E) an attestation that the supervisor is not related to, married to, or domestic partners with the supervisee.

(3) Each supervisor shall:

(A) regularly, commensurate with the care provided, observe the provision of nutrition care services by the student or trainee supervised, and evaluate, authorize, and approve all nutrition care services of the student or trainee supervised;

(B) maintain primary responsibility for and control over all nutrition care services performed by the student or trainee, including clinical record keeping;

(C) ensure the student or trainee is designated throughout the supervised practice experience by a title that indicates the individual's status as a student or trainee;

(D) verify that the applicant participated in nutrition services under his or her supervision, stating the total number of hours;

(E) provide a summary of the nutrition services completed under his or her supervision; and

(F) provide an evaluation of the applicant for the Board to be able to assess the applicant's performance in completion of the competencies required by ACEND.

(l) Applicants providing evidence of completing a Board-approved internship or documented, supervised practice experience in G.S. 90-357.5(c)(2) must submit documentation demonstrating at least 1000 hours of documented, supervised practice experience, meeting the requirements as stated in G.S. 90-357.5(c)(2). The scope of activities may include alternate supervised experiential learning such as simulation, case studies, and role playing, but must also include at least 750 hours of direct supervised experiential learning. The 1000 hours must be concurrent with or following completion of the academic requirements for licensure and need not be a paid experience. Learning experiences must prepare students to provide nutrition care services for various populations of diverse cultures, genders, and across the life cycle, which may include infants, children, adolescents, adults, pregnant/lactating

females, and older adults and to be able to competently formulate actionable medical nutrition therapies and interventions, education, counseling, and ongoing care for the prevention, modulation, and management of a range of acute and chronic medical conditions, including:

(1) underweight, overweight, malnutrition, and obesity;
(2) cardiometabolic;
(3) endocrine;
(4) immune and autoimmune; and
(5) gastrointestinal disorders.

(m) The following shall be necessary for proof of completion of a Board-approved internship or a documented, supervised practice experience in nutrition services under Paragraph (l) of this Rule:

(1) If there shall be more than one supervisor or facility for different parts of the supervised practice experience, information and verification of each part, as provided in Subparagraphs (2) and (3) of this Paragraph, is required.
(2) The applicant shall provide to the Board for each supervisor/facility:
    (A) the name and address of the facility providing the supervised practice experience;
    (B) the name, address, phone, and title of the supervisor who supervised the supervised practice experience;
    (C) a summary of nutrition services performed, along with dates, and hours spent performing them;
    (D) evidence that the supervisor met the requirements as stated in G.S. 90-357.5(c)(2) at the time of supervision; and
    (E) an attestation that the supervisor is not related to, married to, or domestic partners with the supervisee.
(3) Each supervisor shall:
    (A) regularly, commensurate with the care provided, observe the provision of nutrition care services by the student or trainee supervised, and evaluate, authorize, and approve all nutrition care services of the student or trainee supervised;
    (B) maintain primary responsibility for and control over all nutrition care services performed by the student or trainee, including clinical record keeping;
    (C) ensure the student or trainee is designated throughout the supervised practice experience by a title that indicates the individual's status as a student or trainee;
    (D) verify that the applicant participated in nutrition services under his or her supervision, stating the total number of hours;
    (E) provide a summary of the nutrition services completed under his or her supervision; and
    (F) provide an evaluation of the applicant for the Board to be able to assess the applicant's performance in the provision of nutrition services, as defined in 21 NCAC 17 .0101(12), to address, at a minimum, the acute and chronic medical conditions listed in Paragraph (l) of this Rule.

(n) Applicants who have obtained his or her education outside of the United States and its territories shall:

(1) Have his or her academic degrees evaluated by a Board-approved foreign credential evaluating service as equivalent to a baccalaureate or higher degree conferred by a U.S. college or university accredited by the regional accrediting agencies recognized by the Council on Higher Education Accreditation and the U.S. Department of Education; and
(2) All documents submitted in a language other than English shall be accompanied by a certified translation thereof in English from a Board-approved translation service.
(3) The following foreign credential evaluating and translation services are Board-approved:
    (A) Academic and Professional International Evaluation, Inc., which may be found at: www.apie.org;
    (B) Academic Credentials Evaluation Institute, Inc., which may be found at: https://www.acei-global.org/;
    (C) American Education Research Corporation, Inc., which may be found at: http://www.aerc-eval.com/;
    (D) Association of International Credential Evaluators, Inc., which may be found at: www.aice-eval.org;
    (E) Bruscan Educational Information Services, which may be found at: http://www.bruscan.com/;

(F) Center for Educational Documentation, Inc., which may be found at: http://www.cedevaluations.com/;
(G) Education Credential Evaluators, Inc., which may be found at: www.ece.org;
(H) Educational Perspectives, which may be found at: https://www.edperspective.org/;
(I) Foundation for International Services, Inc., which may be found at: https://www.fis-web.com/;
(J) International Education Research Foundation, which may be found at: www.ierf.org;
(K) Josef Silny & Associates, which may be found at: http://www.jsilny.org/;
(L) SpanTran: The Evaluation Company, which may be found at: https://www.spantran.com/; or
(M) World Education Services, Inc., which may be found at: https://www.wes.org/.

(o) If the Board determines that the application does not demonstrate satisfaction of the requirements specified in G.S. 90-357.5 and this Rule, the Board shall notify the applicant in writing. The notification shall include what is required to demonstrate the applicant meets the statutory requirements, and the applicant shall be:

(1) offered the ability to place the application on hold for a time period of up to one year from the date of the letter providing the Board's determination, so long as such a request is made in writing within 30 days of the date of the letter. During this hold time, the applicant may provide other evidence demonstrating the applicant satisfied the requirements the Board determined were not met;
(2) offered the opportunity to appear for an interview before the Board. At any time during that interview, the applicant may stop the interview, and request to have all or any part of requested information provided in writing; and
(3) offered the ability to withdraw the application so long as such a request is made in writing within 30 days of the date of the letter. The applicant will be allowed to apply for licensure at a later time.

(p) If an applicant who received the notice specified in Paragraph (o) of this Rule does not provide a written response to the Board within 30 days of the date of the notification requesting that he or she be granted an interview or his or her application be placed on hold or withdrawn, or after the opportunity for an interview the Board determines the applicant has still not demonstrated satisfaction of the requirements specified in G.S. 90-357.5 and this Rule and the applicant has not requested his or her application be placed on hold or withdrawn, the Board shall issue the applicant an official rejection as provided in G.S. 90-358.

(q) A rejected applicant shall have 60 days from the date of official rejection to request a contested case hearing in accordance with the rules of this Chapter.

History Note: *Authority G.S. 90-356; 90-357.5; 90-357.6; 90-358;*
Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13, 1992;
Eff. June 1, 1992;
Recodified from 21 NCAC 17 .0004 Eff. February 1, 1995;
Amended Eff. December 1, 2011; July 18, 2002; March 1, 1996;
Readopted Eff. August 1, 2019;
Amended Eff. January 1, 2023.

21 NCAC 17 .0105 EXAMINATION FOR LICENSURE

The Board shall recognize the passing scores set by the testing agencies for the exams in G.S. 90-359 as "successful completion."

History Note: *Authority G.S. 90-356; 90-359;*
Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13, 1992;
Eff. June 1, 1992;
Recodified from 21 NCAC 17 .0005 Eff. February 1, 1995;
Amended Eff. July 18, 2002;
Readopted Eff. August 1, 2019.

21 NCAC 17 .0106 GRANTING LICENSE WITHOUT EXAMINATION

History Note: *Authority G.S. 90-356; 90-360;*
Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13, 1992;
Eff. June 1, 1992;
Recodified from 21 NCAC 17 .0006 Eff. February 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;
Repealed Eff. March 15, 2023.

21 NCAC 17 .0107 PROVISIONAL LICENSE

(a) Applicants for a provisional license under G.S. 90-357.5(a) shall provide evidence of completing the educational and supervised practice experience requirements by submitting the information required by Rule 21 NCAC 17 .0104(h) and (j), and providing evidence of making application to take the Registered Dietitian Nutritionist examination. Applicants granted provisional licensure under G.S. 90-357.5(a) shall be given the credential "PLDN."

(b) Applicants for a provisional license under G.S. 90-357.5(c) shall provide evidence of completing the educational and supervised practice experience requirements by submitting the information required by Rule 21 NCAC 17.0104(i) and (k), and providing evidence of making application to take the Certified Nutrition Specialist examination or the Diplomate of the American Clinical Board of Nutrition examination. Applicants granted a provisional license under G.S. 90-357.5(c) shall be given the credential "PLN."

(c) Applications for a provisional license are available at www.ncbdn.org.

(d) A provisional license shall be issued for a period of 12 months upon the applicant completing the following:

(1) payment of application, issuance, and criminal history record check fees;
(2) submission of a completed, approved application as provided by the Board; and
(3) provision of evidence of being under the supervision of North Carolina licensed dietitian(s)/nutritionist(s) or licensed nutritionist(s).

(e) Following the successful completion, as defined in 21 NCAC 17 .0105, of one of the licensing examinations, the provisionally licensed dietitian/nutritionist or provisionally licensed nutritionist shall submit a completed application for licensure pursuant to G.S. 90-357.5, payment of fees, and evidence of passing one of the examinations referenced in G.S. 90-359. If the provisionally licensed dietitian/nutritionist or provisionally licensed nutritionist successfully completes one of the licensing examinations and submits an application for licensure pursuant to G.S. 90-357.5 within 12 months of the date that the provisional license became effective, the provisionally licensed dietitian/nutritionist or provisionally licensed nutritionist shall only be required to pay the balance of the issuance fee.

(f) If the provisionally licensed dietitian/nutritionist or provisionally licensed nutritionist does not successfully complete the licensing examination and apply for a license pursuant to G.S. 90-357.5 within 12 months of the date that the provisional license became effective, the provisionally licensed dietitian/nutritionist or provisionally licensed nutritionist must reapply and pay all applicable fees in order to obtain licensure under G.S. 90-357.5.

History Note: *Authority G.S. 90-356; 90-357.5; 90-361;*
Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13, 1992;
Eff. June 1, 1992;
Recodifed from 21 NCAC 17 .0007 Eff. February 1, 1995;
Amended Eff. December 1, 2011; July 18, 2002; March 1, 1996; February 1, 1995;
Readopted Eff. August 1, 2019.

21 NCAC 17 .0108 DISAPPROVED APPLICATION

The Board shall not approve an applicant for licensure or renewal if the applicant:

(1) has not completed the requirements set by Article 25 of Chapter 90 of the General Statutes and the rules of this Chapter.
(2) has failed to remit any applicable fees; and
(3) has failed to comply with requests for supporting documentation.

History Note: *Authority G.S. 90-356; 90-358; 90-363;*
Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13, 1992;

Eff. June 1, 1992;
Recodified from 21 NCAC 17 .0008 Eff. February 1, 1995;
Amended Eff. July 18, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;
Amended Eff. January 1, 2023.

21 NCAC 17 .0109 ISSUANCE AND RENEWAL OF LICENSE

(a) An applicant shall be issued a license based on compliance with requirements stated in G.S. 90-357.5 and the rules in this Chapter.

(b) A licensee shall notify the Board of any change in the licensee's personal or professional mailing address within 30 days of that change.

(c) Licenses shall expire on March 31 of every year. A license for an LDN or LN shall be issued for a period of one year beginning April 1 and ending March 31. If an LDN or LN license is initially granted, reinstated, or reactivated between January 1 and March 31, the license shall be granted from the time of issuance through March 31 of the following year.

(d) At least 30 days prior to the expiration date of the license, the Board shall send the licensee written notice via USPS or electronic mail of the amount of renewal fee due, and instructions on how the licensee may renew online at www.ncbdn.org. Each applicant for renewal shall file a completed application with the Board.

(e) A licensee's renewal application must be submitted online prior to the expiration date. The licensee's renewal fee must also be received or postmarked prior to the expiration date in order to avoid the late renewal fee. If the fee is mailed, it must be sent to the mailing address provided in 21 NCAC 17 .0104(d). The licensee shall be responsible for filing any change of email or physical address where renewal notices are to be sent. Failure to receive renewal notice due to the licensee's failure to file change of addresses with the Board shall not be justification for late renewal.

(f) Renewal applications shall require licensees attest that the information on the application is true and complete. The applicant shall provide a written explanation and all available court documents evidencing the circumstances of any pending charge or conviction, not previously made known to the Board, if requested by the Board. The Board shall use these documents when determining if a license should be renewed under G.S. 90-363.

(g) Applicants for renewal of licenses shall provide documentation of having met continuing education requirements by submitting:

(1) Verification of current certification as a Registered Dietitian Nutritionist by the CDR, and verification of compliance with CDR's continuing education requirements. The continuing education standards required to maintain certification are contained in the "Professional Development Portfolio Guide," which is hereby incorporated by reference including subsequent amendments and editions of reference material. Copies of this standard may be obtained at no charge from CDR's website at: https://www.cdrnet.org/pdp/professional-development-portfolio-guide;

(2) A summary of continuing education on the form provided by the Board documenting completion of 75 hours of continuing education for a five year period. The continuing education hours must meet the standards contained in the "Professional Development Portfolio Guide." Documentary evidence for continuing education activities shall include the following for each activity:
   (A) the name of provider/sponsor;
   (B) the name of accrediting organization;
   (C) the title of the activity;
   (D) the date attended;
   (E) the continuing education hours earned; and
   (F) a record of attendance or participation;

(3) Verification of current certification as a Certified Nutrition Specialist by the BCNS, and verification of compliance with BCNS's continuing education requirements. The continuing education standards required to maintain certification are listed on the Board for Certification of Nutrition Specialists' website, which is hereby incorporated by reference including subsequent amendments or editions of reference material. Copies of this standard may be obtained at no charge from the BCNS's website at: https://theana.org/certify/currentCNS/recertification; or

(4) Verification of current certification as a Diplomate, American Clinical Board of Nutrition by the ACBN, and verification of compliance with ACBN's continuing education requirements. The

continuing education standards required to maintain certification are listed on the American Clinical Board of Nutrition's website, which is hereby incorporated by reference including subsequent amendments or editions of reference material. Copies of this standard may be obtained at no charge from the ACBN's website at: https://www.acbn.org/policiesprocedures.pdf.

(h) The Board shall furnish a renewal license to each licensee who meets all renewal requirements by the expiration date.

(i) The Board shall renew a license upon the payment of a late fee within 60 days of the expiration date. If the license has been expired for 60 days or less, the license may be renewed by submitting the online license renewal form, the renewal and late fee, and verification of current certification as a Registered Dietitian Nutritionist, Certified Nutrition Specialist, Diplomate, American Clinical Board of Nutrition, or, if following the requirements of Subparagraph (g)(2) of this Rule, continuing education documentation to the Board, postmarked on or before the end of the 60-day grace period.

History Note: *Authority G.S. 90-356; 90-362; 90-363;*
Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13, 1992;
Eff. June 1, 1992;
Recodified from 21 NCAC 17 .0009 Eff. February 1, 1995;
Amended Eff. February 1, 2021; December 1, 2011; July 18, 2002; February 1, 1995;
Readopted Eff. August 1, 2019.

21 NCAC 17 .0110 LICENSURE CERTIFICATE

(a) The Board shall issue to each licensee an electronic license certificate and an electronic license identification card. The identification card shall contain the person's name, license number, and date of expiration.

(b) License certificates shall be signed by the Chair, Secretary, and Treasurer and be affixed with the seal of the Board. Identification cards shall bear the signature of the Chair.

(c) Any certificate or identification card issued by the Board shall remain the property of the Board and shall be surrendered to the Board upon demand.

(d) Licensees shall comply with G.S. 90-640, which specifies the wearing of a name badge.

(e) The license certificate must be displayed in a public manner as follows:

(1) The license certificate shall be displayed in the primary place of employment of the licensee; or

(2) In the absence of a primary place of employment or when the licensee is employed in multiple locations, the licensee shall print and carry a current, Board-issued license identification card.

(f) Neither the licensee nor anyone else shall make any alteration on a license certificate or license identification card issued by Board.

(g) The Board shall issue an official licensure certificate upon a written request from the licensee and payment of the Duplicate License Certificate Fee.

(h) Within 30 days of a name change, the licensee must submit a written request with government-issued documentation reflecting the name change to the Board. Upon receipt of the request and documentation the Board shall re-issue a license certificate and license identification card. If an official licensure certificate reflecting the name change is requested, the request shall be accompanied by a Duplicate License Certificate Fee.

History Note: *Authority G.S. 90-356; 90-362;*
Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13, 1992;
Eff. June 1, 1992;
Recodified from 21 NCAC 17 .0010 Eff. February 1, 1995;
Amended Eff. July 18, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;
Amended Eff. January 1, 2023.

21 NCAC 17 .0111 INACTIVE STATUS

(a) A licensee may have a license placed in inactive status by written request to the Board, signed by the holder of the license or the holder's legal guardian.

(b) While a license is in an inactive status, the licensee shall meet the continuing education requirements each year as required by the Board's rules, but is not required to pay the renewal fee.
(c) A license may be withdrawn from inactive status by written request of the holder, completion of a renewal application, compliance with continuing education requirements and payment of the current licensing fee.

History Note: *Authority G.S. 90-356; 90-362;*
Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13, 1992;
Eff. June 1, 1992;
Recodified from 21 NCAC 17 .0011 Eff. February 1, 1995;
Amended Eff. July 18, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

21 NCAC 17 .0112 SUSPENSION, REVOCATION AND DENIAL OF LICENSE
(a) The Board may refuse to issue a license, or suspend, revoke, or impose probationary conditions and restrictions on the license of a person upon a finding of any of the causes provided in Article 25 of Chapter 90 of the General Statutes.
(b) When the Board has probable cause to believe that, an applicant or licensee has violated any part of G.S. 90-350 through 90-369 or the rules of this Chapter, the Board shall so advise the person in writing as referenced in Rule .0503 and .0504 of this Chapter and provide the person with the opportunity for a hearing as referenced in Rule .0504 of this Chapter. The Board's final decision or order shall be made in writing as referenced in Rule .0514 of this Chapter.
(c) A suspended license is subject to expiration and may be renewed as provided in this Section, but such renewal shall not entitle the licensee to engage in the licensed activity until he or she is reinstated. If a license revoked on disciplinary grounds is to be reinstated, the licensee must reapply and pay all applicable fees. The Board may deny or refuse to reinstate a license or may suspend or impose probationary conditions on a license if the licensee has engaged in conduct listed in G.S. 90-363.

History Note: *Authority G.S. 90-356; 90-363;*
Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13, 1992;
Eff. August 3, 1992;
Recodified from 21 NCAC 17 .0012 Eff. February 1, 1995;
Amended Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;
Amended Eff. January 1, 2023.

21 NCAC 17 .0113 FEES
The following fees, where applicable, are payable to the Board by credit card, check, or money order. Credit card payments are only accepted electronically via the Board's web-based licensure system. Payments by check or money order may be mailed to: North Carolina Board of Dietetics/Nutrition, 1135 Kildaire Farm Road, Suite 200, Cary, NC 27511. Fees are nonrefundable, except the Board may refund the Issuance Fee when an application is not approved.

Application Fee	$60.00
Issuance Fee	$150.00
License Renewal Fee	$95.00
Late Renewal Fee	$75.00
Examination Fee	$200.00
Provisional License Fee	$35.00
Duplicate License Certificate Fee	$30.00

History Note: *Authority G.S. 90-356; 90-364;*
Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13, 1992;
Eff. June 1, 1992;

Recodified from 21 NCAC 17 .0013 Eff. February 1, 1995;
Amended Eff. July 1, 2003; July 18, 2002; March 1, 1996; February 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;
Amended Eff. November 1, 2022.

21 NCAC 17 .0114 CODE OF ETHICS FOR PROFESSIONAL PRACTICE AND CONDUCT

(a) Licensees, under the Act, shall comply with the following Code of Ethics in their professional practice and conduct. The Code reflects the ethical principles of the dietetic/nutrition professional and outlines obligations of the licensee to self, client or patient, society, and the profession and sets forth mandatory standards of conduct for all licensees.

(1) The licensee shall provide professional services with objectivity and with respect for the unique needs and values of individuals as determined through the nutritional assessment.

(2) The licensee shall conduct all practices of dietetics or nutrition with honesty.

(3) The licensee shall present substantiated information and assess the validity and applicability of scientific evidence without personal bias.

(4) The licensee shall practice evidence-based dietetics or nutrition.

(5) The licensee shall assume responsibility and accountability for personal competence in practice, continuously develop and enhance expertise through education, and recognize personal limitations.

(6) The licensee shall inform the public of his or her services by using accurate and truthful information.

(7) The licensee shall not exercise undue influence on a client or patient. This includes, not exercising excessive persuasion or improper influence on a client or patient in the promotion or the sale of services or products. The licensee shall be alert to any conflicts of interest and shall provide full disclosure when a real or potential conflict of interest arises.

(8) The licensee shall not reveal information about a client or patient obtained in a professional capacity, without prior consent of the client or patient, except as authorized or required by law, and shall make full disclosure about any limitations on his or her ability to guarantee this.

(9) The licensee shall safeguard client or patient confidentiality according to current regulations and laws, using appropriate technology, such as encryption.

(10) The licensee shall recognize and exercise professional judgment within the limits of the licensee's qualifications and shall not accept or perform professional responsibilities which the licensee knows or has reason to know that he or she is not qualified to perform.

(11) The licensee shall collaborate with others involved in the patient's care, obtain consultation from health care providers when appropriate, and make referrals to health care providers when the licensee cannot provide the client or patient the services he or she needs.

(12) The licensee shall take action, with prior consent of the client or patient, to inform a client or patient's physician or other health care practitioner in writing in cases where a client or patient's nutritional status indicates a change in health status impacting the disease or medical condition for which the physician or other health care practitioner is treating the client or patient.

(13) The licensee shall ensure that his or her client or patient has sufficient information to understand the nutrition diagnosis and the implications of nutrition intervention. The licensee shall not guarantee that nutrition care services will cause any certain outcome or particular result for the client or patient.

(14) The licensee shall permit use of that licensee's name for the purpose of certifying that dietetics or nutrition services have been rendered only if the licensee has provided or supervised those services.

(15) The licensee shall document, code, and bill nutrition services to most accurately reflect the character and extent of such delivered services.

(16) The licensee shall notify the Board in writing within 30 days of the occurrence of any of the following:

(A) the licensee seeks any medical care or professional treatment for the chronic or persistent use of intoxicants, drugs, or narcotics.

(B) the licensee is adjudicated to be mentally incompetent.

(C) the licensee has been convicted or entered into a plea of guilty or nolo contendere to any crime directly related to the duties and responsibilities of a dietitian or nutritionist or that was violent or sexual in nature; or

(D) the licensee has been disciplined by an agency of another state that regulates the practice of dietetics or nutrition.

(17) The licensee shall comply with all laws and rules concerning the profession.

(18) The licensee shall uphold the Code of Ethics for professional practice and conduct by reporting to the Board inappropriate behavior or treatment of a client or patient by the licensee or others in violation of the Code and the Act.

(19) The licensee shall not interfere with an investigation or disciplinary proceeding by willful misrepresentation of facts to the Board or its representative or by the use of threats or harassment against any person.

(20) The licensee shall not engage in kissing, fondling, touching, or in any activities, advances, or comments of a sexual nature with any client, patient, or, while under the licensee's supervision, any supervisee, student, or trainee.

(21) The licensee shall not invite, accept, or offer gifts, monetary incentives, or other considerations that affect or reasonably give an appearance of affecting the licensee's professional judgment.

(b) Conduct and circumstances which may result in disciplinary action by the Board include the following:

(1) The licensee is a chronic user of intoxicants, drugs, or narcotics to the extent that the same impairs his or her ability to practice dietetics or nutrition, as determined by a health care provider licensed to conduct such assessment.

(2) The licensee is mentally, emotionally, or physically unfit to practice dietetics or nutrition and is afflicted with such a mental, emotional, or physical disability as to be dangerous to the health and welfare of a client or patient, as determined by a health care provider licensed to conduct such assessment.

(3) The licensee has been disciplined by an agency of another state that regulates the practice of dietetics or nutrition and at least one of the grounds for the discipline is the same or substantially equivalent to the grounds for discipline in this state.

(4) The licensee has violated any provisions of the Act or any of the rules of this Chapter.

History Note: *Authority G.S. 90-356(3); 90-356(2);*
Temporary Adoption Eff. March 19, 1992 for a period of 180 days to expire on September 13, 1992;
Eff. July 1, 1992;
Recodified from 21 NCAC 17 .0014 Eff. February 1, 1995;
Amended Eff. April 1, 2010; July 1, 2004; July 18, 2002; March 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;
Amended Eff. January 1, 2023.

21 NCAC 17 .0115 EXEMPTIONS

History Note: *Filed as a Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13, 1992;*
Authority G.S. 90-356; 90-368;
Eff. June 1, 1992;
Recodified from 21 NCAC 17 .0015 Eff. February 1, 1995;
Repealed Eff. July 18, 2002.

21 NCAC 17 .0116 VIOLATIONS, COMPLAINTS, SUBSEQUENT BOARD ACTION, AND HEARINGS

History Note: *Authority G.S. 90-356; 90-363; 90-370;*
Temporary Adoption Eff. July 16, 1992 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Eff. November 30, 1992;

Recodified from 21 NCAC 17 .0016 Eff. February 1, 1995;
Amended Eff. April 1, 2010; July 18, 2002; January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;
Repealed Eff. January 1, 2023.

21 NCAC 17 .0117 SUSPENSION OF AUTHORITY AND ESCROW OF FUNDS

Not later than October 31 of each year, the Board shall file the reports required by G.S. 93B-2. In the event the reports required by G.S. 93B-2 are not timely filed and the Board's authority to expend any funds is therefore suspended, the Board shall deposit any fees or funds received during the period of suspension to an escrow account established by the Board solely for this purpose, and shall not expend such fees or funds until such time as the required reports are filed in accordance with G.S. 93B-2.

History Note: *Authority G.S. 90-356; 93B-2;*
Eff. April 1, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

21 NCAC 17 .0118 ARMED SERVICES LICENSEES

Upon receipt of a written request on or behalf of a licensee who is currently in good standing with the Board, is serving in the armed forces of the United States, and to whom G.S. 105-249 grants an extension of time to file a tax return, the Board shall waive or postpone renewal fees, renewal application deadlines, continuing education requirements and any other requirement or conditions related to the maintenance of the license issued by the Board or to the renewal thereof for a period of time not less than the extended period of time to file a tax return that is granted pursuant to G.S. 93B-15.

History Note: *Authority G.S. 90-356; 93B-15;*
Eff. April 1, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

21 NCAC 17 .0119 DECLARATORY RULINGS

(a) A request for a declaratory ruling made pursuant to G.S. 150B-4 shall be in writing and addressed to the Board at the address provided in Rule .0104(c) of this Section. The request shall contain the following information:

(1) the name and address of the person requesting the ruling;
(2) the statute, rule, or order to which the request relates;
(3) a concise statement as to whether the request is for a ruling on the validity of a rule or on the applicability of a statute, rule, or order to a given factual situation; and
(4) a statement as to whether a hearing is desired, and if desired, the reason therefore.

(b) The Board shall refuse to issue a declaratory ruling under the following circumstances:

(1) when the Board determines it has already made a controlling decision on substantially similar facts in a contested case.
(2) when the facts underlying the request for a ruling on a rule were specifically considered at the time of the adoption of the rule in question; or
(3) when the subject matter of the request is involved in pending litigation to which the Board is a party.

History Note: *Authority G.S. 90-356(2); 150B-4;*
Eff. June 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

21 NCAC 17 .0120 PETITIONS FOR ADOPTION, AMENDMENT, OR REPEAL OF RULES

(a) Rule-making petitions made pursuant to G.S. 150B-20 shall be sent to the Board. No special form is required, but the petitioner shall state his or her name and address. The petition shall include:

(1) the text of the proposed rule(s) for adoption or amendment;

(2) a statement of the reasons for the proposal;
(3) a statement of the effect of the proposal on existing rules or decisions;
(4) any data supporting the proposed rule change;
(5) if known, practices likely to be affected by the proposed rule change; and
(6) if known, persons likely to be affected by the proposed rule change.

(b) The Board shall make a decision to grant or deny the petition based upon a study of the facts stated in the petition, whether the public interest will be better served by granting or denying the petition, and any other relevant information, as determined by the Board.

History Note: *Authority G.S. 90-356(2); 150B-20;*
Eff. June 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

21 NCAC 17 .0121 RULE MAKING NOTICE

Persons or agencies desiring to receive notice of the Board's rule making shall file a written request with the Board at the address provided in Rule .0104 (c) of this Section, furnishing their name, mailing address, and electronic mailing address, if applicable.

History Note: *Authority G.S. 90-356(2); 150B-21.2(d);*
Eff. June 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

SECTION .0200 - REVIEW AND APPROVAL OF WEIGHT CONTROL SERVICES

21 NCAC 17 .0201 DEFINITIONS

History Note: *Authority G.S. 90-356; 90-368;*
Eff. February 1, 1995;
Amended Eff. December 1, 2011; March 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;
Repealed Eff. January 1, 2023.

21 NCAC 17 .0202 REQUIREMENT FOR REVIEW

History Note: *Authority G.S. 90-356; 90-368;*
Eff. February 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;
Repealed Eff. January 1, 2023.

21 NCAC 17 .0203 REVIEW AND BOARD ACTION

History Note: *Authority G.S. 90-356; 90-368;*
Eff. February 1, 1995;
Amended Eff. December 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;
Repealed Eff. January 1, 2023.

SECTION .0300 - DIETETIC/NUTRITION STUDENTS OR TRAINEES

21 NCAC 17 .0301 DEFINITIONS

History Note: *Authority G.S. 90-356(2); 90-368(2);*
Eff. March 1, 1996;
Repealed Eff. July 18, 2002.

21 NCAC 17 .0302 REQUIREMENTS

A student or trainee under direct supervision is exempt pursuant to G.S. 90-368(2) when enrolled in a course of study or completing a documented, supervised practice experience as required under G.S. 90-357.5, not to exceed five years. The Board may approve or disapprove a request, submitted to the Board electronically or via postal mail, for an extension of the period of time if the delay is not the result of a willful or negligent act, error, or omission, or a failure to exercise reasonable diligence.

History Note: *Authority G.S. 90-356(2); 90-357.5; 90-368(2);*
Eff. March 1, 1996;
Amended Eff. July 18, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;
Amended Eff. March 15, 2023.

21 NCAC 17 .0303 SUPERVISION

For purposes of G.S. 90-368(2), "direct supervision" means the supervising practitioner:

(1) together with the supervisee, shall identify and document: competency goals for the supervised practice experience described in G.S. 90-357.5; the supervisee's scope of practice; the assignment of clinical tasks as appropriate to the supervisee's level of competence; the supervisee's relationship and access to the supervisor; and an evaluation process for the supervisee's performance.

(2) is physically onsite and available for physical intervention where the student or trainee is providing nutrition care that requires physically touching the patient and is either physically onsite and available for physical intervention or continuously available by means of two-way real-time audiovisual technology that allows for the direct, contemporaneous interaction by sight and sound between the qualified supervisor and the supervisee where the student or trainee is providing medical nutrition therapy not requiring touching of the patient;

(3) shall be available to render assistance during the provision of nutrition care when requested by the patient or client, or shall have arranged for another qualified practitioner lawfully able render nutrition care services, to be available in the absence of the supervising practitioner;

(4) regularly, commensurate with the care provided, observes the nutrition care services of the student or trainee supervised, and evaluates, authorizes, and approves all medical nutrition therapy provided by the student or trainee supervised;

(5) maintains primary responsibility for and control over all nutrition care services performed by the student or trainee, including countersigning all clinical encounter notes; and

(6) ensures the student or trainee is designated throughout the supervised practice experience by a title that indicates the individual's status as a student or trainee.

History Note: *Authority G.S. 90-356(2); 90-357.5; 90-368(2);*
Eff. March 1, 1996;
Amended Eff. December 1, 2011; July 18, 2002;
Readopted Eff. December 1, 2019;
Amended Eff. March 15, 2023.

21 NCAC 17 .0304 RECORDS AND REPORTS

(a) Permanent and current records from internships or documented, supervised practice experiences in nutrition services shall be available for review by representatives of the Board. The Board may use such records in determining compliance with G.S. 90-368(2) and in approving applications for a license.

(b) The Board may require such records for review throughout the period of completing an individual's internship or documented, supervised practice experience in nutrition services required under G.S. 90-357.5 and throughout the period of application review to provide evidence and substantiate compliance with Article 25 of Chapter 90 of the General Statutes and the rules of this Chapter.

History Note: *Authority G.S. 90-356(2); 90-368(2); 90-357;*
Eff. March 1, 1996;
Amended Eff. July 18, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;
Amended Eff. January 1, 2023.

SECTION .0400 - UNLICENSED INDIVIDUALS

21 NCAC 17 .0401 INDIVIDUALS AIDING THE PRACTICE OF DIETETICS OR NUTRITION

(a) As used in this Section, the following terms and phrases, which have not already been defined in Article 25 of Chapter 90 of the General Statutes shall have the meanings specified:

(1) "Direct supervision" as referenced in G.S. 90-368(4) means that a licensed dietitian/nutritionist, licensed nutritionist, or other licensed health care practitioner whose licensed scope of practice includes the practice of dietetics or nutrition shall:
   (A) be available for consultation on delegated nutrition care activities being performed by the person being supervised, either through on-site or through electronic communication, and shall be available to render assistance when needed to the unlicensed personnel and patient or client, or shall have arranged for another licensee to be available in the absence of the licensed dietitian/nutritionist, licensed nutritionist, or other licensed health care practitioner whose licensed scope of practice includes the practice of dietetics or nutrition;
   (B) directly and personally examine, evaluate, and approve the acts or functions of the person supervised; and
   (C) provide sufficient guidance and direction as to enable the unlicensed personnel to perform the delegated activity or function.

(2) "Nutrition care activities" means activities performed by unlicensed personnel that are delegated by licensed dietitians/nutritionists, licensed nutritionists, or other licensed health care practitioners whose licensed scope of practice includes the practice of dietetics or nutrition in accordance with Paragraphs (b), (c), and (d) of this Rule and that support the provision of medical nutrition therapy as referenced in G.S. 90-352(3a).

(b) The licensed dietitian/nutritionist, licensed nutritionist, or other licensed health care practitioner whose licensed scope of practice includes the practice of dietetics or nutrition:

(1) may delegate nutrition care activities to unlicensed personnel that are appropriate to the level of knowledge and skill of the unlicensed personnel;
(2) shall be responsible for the initial and ongoing determination of the competence of the unlicensed personnel to perform any delegated acts or functions. Delegation of nutrition care activities shall be in writing and shall identify the patient or client and the act or function assigned to the unlicensed personnel;
(3) shall supervise the nutrition care activities of the unlicensed personnel and maintain responsibility for nutrition care activities performed by all personnel to whom the care is delegated;
(4) shall not delegate the entire spectrum of medical nutrition therapy but may delegate specific acts and functions which support the licensed professional's provision of medical nutrition therapy; and
(5) shall have the responsibility for clinical record documentation.

(c) The following variables shall be considered by the licensed dietitian/nutritionist, licensed nutritionist, or other licensed health care practitioner whose licensed scope of practice includes the practice of dietetics or nutrition in determining whether or not an activity or function may be delegated to unlicensed personnel:

(1) knowledge and skills of the unlicensed personnel which include both basic educational and experience preparation and continuing education and experience;
(2) the competence of the unlicensed personnel for the activity or function;
(3) the variables in each service setting which include:
   (A) the complexity and frequency of nutrition care needed by a given client population;
   (B) the acuity and stability of the client's condition; and
   (C) established policies, procedures, practices, and channels of communication of the facilities where the delegated activities or functions are being performed which lend

support to the types of nutrition care activities being delegated, or not delegated, to unlicensed personnel; and

(4) whether the licensed dietitian/nutritionist, licensed nutritionist, or other licensed health care practitioner whose licensed scope of practice includes the practice of dietetics or nutrition has the skills, experience, and ability to supervise the unlicensed personnel for the activity or function.

(d) Tasks, treatments, or interventions that may not be delegated include, but are not limited to:

(1) assessments of data, problem identification, and outcome evaluation;

(2) tasks, treatments, or intervention that require a license; and

(3) any and all aspects of care or activities that require independent clinical judgment or knowledge by a licensee.

History Note: *Authority G.S. 90-356(2); 90-368(4);*
Eff. March 1, 1996;
Amended Eff. May 1, 2010; July 18, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;
Amended Eff March 15, 2023.

21 NCAC 17 .0402 INDIVIDUALS PROVIDING NUTRITION INFORMATION

(a) The following terms and phrases shall have the meanings specified:

(1) "Nutrition information" means nutrition information related to food, food materials, or dietary supplements which is designed for one or more healthy population groups and is based on scientific evidence. Nutrition information is not individualized to provide nutrition care services for the purpose of managing or treating a medical condition for a specific person or group as referenced in G.S. 90-352(3a).

(2) "Reported or historical use" means information about food, food materials, or dietary supplements which is based on:

(A) historical or methodological studies or research conducted by experts in the field using sound scientific methods with randomized controlled clinical trials; or

(B) reports on scientific studies published in peer-reviewed medical or dietetics and nutrition journals or publications.

(b) The Board shall deem an individual who provides nutrition information or education to be in compliance with G.S. 90-368(9) when:

(1) The person does not hold himself or herself out to be a dietitian or nutritionist or imply orally or in writing or indicate in any way that he or she is a dietitian or nutritionist;

(2) The person does not provide medical nutrition therapy support activities which have not been delegated to him or her by a licensed dietitian/nutritionist, licensed nutritionist, or other licensed health care practitioner whose licensed scope of practice includes the practice of dietetics or nutrition;

(3) The person provides nutrition information on or about food, food materials, or dietary supplements, and does not provide nutrition information on the nutritional needs of the consumer as related to managing or treating a medical condition;

(4) The person provides nutrition information in connection with the marketing and distribution of the food, food materials, dietary supplements, or other goods to be provided or sold, and does not provide nutrition information in connection with the marketing and distribution of medical nutrition therapy services;

(5) The person provides the nutrition information on food, food materials, nutraceuticals, dietary supplements, or other goods in accordance with federal, State, and local laws, regulations, and ordinances, including but not limited to G.S. 90, Article 25.

History Note: *Authority G.S. 90-356(2); 90-368;*
Eff. March 1, 1996;
Amended Eff. July 18, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;
Amended Eff. January 1, 2023.

21 NCAC 17 .0403 TELEPRACTICE

Any person, whether residing in this State or not, who by use of electronic or other medium performs any of the acts described as the practice of medical nutrition therapy with a client or patient located in this State, but is not licensed pursuant to Article 25 of Chapter 90 of the General Statutes shall be deemed by the Board as being engaged in the practice of medical nutrition therapy and subject to the enforcement provisions available to the Board. Among other remedies, the Board shall report violations of this Rule to any occupational licensing board having issued an occupational license to a person who violates this Rule. This Rule does not apply to persons licensed pursuant to, or exempt from licensure pursuant to, Article 25 of G.S. 90.

History Note: *Authority G.S. 90-356;*
Eff. February 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;
Amended Eff. January 1, 2023.

SECTION .0500 – INVESTIGATIVE PROCESS, COMPLAINTS, AND ADMINISTRATIVE HEARINGS

21 NCAC 17 .0501 DEFINITIONS

As used in this Section:

(1) "Good cause" related to motions or requests to continue or for additional time for responding includes:
  (a) death or incapacitating illness of a party, or attorney of a party;
  (b) a court order requiring a continuance;
  (c) lack of proper notice of the hearing;
  (d) a substitution of the representative or attorney of a party if the substitution is shown to be required;
  (e) a change in the parties or pleadings requiring postponement; and agreement for a continuance by all parties if either more time is necessary to complete mandatory preparation for the case, such as authorized discovery, and the parties and the Board have agreed to new hearing date or parties have agreed to a settlement of the case that has been or is likely to be approved by the final decision maker; and
  (f) where, for any other reason, either party has shown that the interests of justice require a continuance or additional time.

(2) "Good cause" related to motions or requests to continue or for additional time for responding shall not include:
  (a) intentional delay;
  (b) unavailability of a witness if the witness testimony can be taken by deposition; and
  (c) failure of the attorney or representative to properly utilize the statutory notice period to prepare for the hearing.

(3) "Investigative Committee" means a Board committee composed of one licensed dietitian/nutritionist member of the Board, one licensed nutritionist member of the Board, and the public member of the Board. This Committee is charged with the duty of reviewing cases and complaints involving licensees, applicants for licensure, and all other allegations involving violations of the Dietetics/Nutrition Practice Act. The Investigative Committee shall be responsible for directing investigations and making recommendations to the Board regarding unresolved cases or complaints at regularly scheduled meetings.

(4) "Licensee" means all persons to whom the Board has issued a license under Article 25 of Chapter 90 of the General Statutes.

History Note: *Authority G.S. 90-356; 150B-38;*
Eff. January 1, 2023.

21 NCAC 17 .0502 COMPLAINTS

(a) Anyone may complain to the Board alleging that a person, applicant, or licensee has committed an action prohibited by Article 25 of Chapter 90 of the General Statutes or the rules of the Board.

(b) Complaints may be submitted to the Board by completing the Board's complaint form online at www.ncbdn.org/file-a-complaint or a paper form may be requested by contacting the Board office. Paper forms may be delivered to the Board by mail or hand-delivery at 1135 Kildaire Farm Road, Suite 200, Cary, NC 27511.
(c) Each complaint submitted shall set forth specific facts and circumstances known to the complainant relating to the Dietetics/Nutrition Practice Act or the Board's rules, and the conduct or competence of each person who is the subject of the complaint.
(d) Anonymous complaints are not investigated unless, if upon preliminary review of the contents of the complaint by Board staff, it appears the allegation(s) indicate a violation of the Dietetics/Nutrition Practice Act or the Board's rules, sufficient identification information for the person who is the subject of the complaint is provided, and there is sufficient information to substantiate allegation(s).
(e) Investigations may be conducted by the Board staff or by other persons authorized by the Board.
(f) Upon receipt of a complaint, the Board shall confirm receipt of the complaint to the complainant.
(g) The Board staff, or its authorized Investigator, shall assign a complaint number to the initial complaint, review the contents of the complaint, and conduct a preliminary review of information to determine whether an individual's conduct or competence relates to the Dietetics/Nutrition Practice Act or the Board's rules.
(h) If preliminary information in the complaint does not relate to an individual's conduct or competence under the authority of the Dietetics/Nutrition Practice Act or the Board's rules, the Board staff, or its authorized Investigator, shall close the complaint and send notice to the complainant. If applicable, the Board staff may refer the complainant to the appropriate governmental agency for handling such complaints. No further action shall be taken by the Board.
(i) If the information about an individual's conduct or competence appears to be under the authority of the Dietetics/Nutrition Practice Act or the Board's rules, Board staff, or its authorized Investigator, shall open an investigative case and begin an investigation of the matters described in the complaint.

History Note: *Authority G.S. 90-356; 90-363;*
Eff. January 1, 2023.

21 NCAC 17 .0503 INVESTIGATIONS
(a) Once an investigative case is created, the Board staff, or its authorized Investigator, shall send each person who is the subject of an investigation, using the mail or electronic mail address of record in the Board's records for each person, or the mail or electronic mail address provided on the complaint form if the person is not in the Board's records, a summary of the complaint and a request for a written response.
(b) Licensees shall submit a written response to a complaint received by the Board within 45 days from the date the Board confirms the licensee's receipt of notice of the complaint. The Board shall grant up to an additional 30 days for the response where the licensee demonstrates good cause for the extension of time. The response shall contain accurate and complete information. Where a licensee fails to respond in the time and manner provided herein, the Board may proceed with making its decision in the absence of the licensee or information from the licensee, and the licensee may be held by the Board to be interfering with an investigation by willful misrepresentation of facts under 21 NCAC 17 .0114(19) in violation of G.S. 90-363(7).
(c) A summary of the complaint and a request for a written response sent to a person who is not an applicant for licensure or a licensee of the Board shall be accompanied by the following statement:
"You are hereby notified that the opinion expressed herein is not a legal determination. An occupational licensing board does not have the authority to order you to discontinue your current practices. Only a court may determine that you have violated or are violating any law and, if appropriate, impose a remedy or penalty for the violation. Further, pursuant to G.S. 150B-4, you may have the right, prior to initiation of any court action by the Board, to request a declaratory ruling regarding whether your particular conduct is lawful. You are further notified that any right to a declaratory ruling supplements any other legal rights that you may already have to establish the legality of your conduct with respect to the goods or services you offer or provide."
(d) The Board staff, or its authorized Investigator, shall investigate a complaint and shall provide the Board's Investigation Committee with an investigation report. The Investigative Committee shall review the report and shall determine to:

(1) request further investigation of particular aspects of the matter;
(2) request the individual who is the subject of the complaint meet with members of the Board to be interviewed if he or she is willing to be interviewed; or
(3) accept the report and make a recommendation to the Board.

(e) The Board shall authorize the Investigative Committee to make a recommendation to the Board if an investigation is complete and the complaint is unresolved.
(f) The Board shall consider the Investigative Committee's recommendation and shall determine whether to:

(1) conduct further investigation of particular aspects of the matter;
(2) close or dismiss the case or issue a non-disciplinary letter of caution;
(3) issue a consent order to the subject of an investigation, specifying any disciplinary sanctions to be applied and, if the consent order is not accepted, issue a notice of hearing;
(4) issue a notice of hearing to a subject, specifying any disciplinary sanctions; or
(5) apply to the courts for injunctive relief, refer a matter to a district attorney for prosecution, or take other actions, including reporting the matter to appropriate state or federal agencies.

(g) A copy of a notice of hearing shall be sent to the complainant.
(h) Whenever a complaint is dismissed or a complaint file is closed, notification of the Board's final decision shall be sent to the complainant, and the accused party.

History Note: *Authority G.S. 90-356; 90-363;*
Eff. January 1, 2023.

21 NCAC 17 .0504 RIGHT TO HEARING
When the Board acts or proposes to act, other than in rule-making or declaratory ruling proceedings, in a manner which will affect the rights, duties, or privileges of a specific, identifiable licensee or applicant for a license, such person has the right to an administrative hearing. When the Board proposes to act in such a manner, it shall give any such affected person notice of the right to a hearing by mailing to the person, by certified mail at the person's last known address, a notice of the proposed action and a notice of a right to a hearing. Notice of a right to a hearing may also be given by any method of service permitted in G.S. 150B-38(c), by a signed acceptance of service from such person, or by delivery to the person's attorney of record who accepts service on behalf of the person.

History Note: *Authority G.S. 90-356; 150B-38(h);*
Eff. January 1, 2023.

21 NCAC 17 .0505 REQUEST FOR HEARING
(a) An individual who believes that individual's rights, duties, or privileges have been affected by the Board's administrative action, but who has not received notice of a right to an administrative hearing, may file a formal request for a hearing.
(b) The individual may submit a request to the Board's office, with the request bearing the notation: "REQUEST FOR ADMINISTRATIVE HEARING." The request shall contain the following information:

(1) name and address of the petitioner;
(2) a concise statement of the action taken by the Board which is challenged;
(3) a concise statement of the way in which the petitioner has been aggrieved; and
(4) a clear and specific statement of request for a hearing.

(c) In order to preserve a person's rights with respect to a Board action, the person shall file a request for hearing with the Board within 60 days after the person receives notice of the Board action that the person challenges.

History Note: *Authority G.S. 90-356; 150B-38;*
Eff. January 1, 2023.

21 NCAC 17 .0506 GRANTING OR DENYING HEARING REQUEST
(a) The Board shall grant a request for a hearing if it determines that the party requesting the hearing is a "person aggrieved" within the meaning of G.S. 150B-2(6). Whenever the Board proposes to deny, suspend, or revoke a license, or issue a letter of reprimand to a licensee, the licensee shall be deemed to be a person aggrieved.
(b) If the Board determines the petitioner is not a person aggrieved, the Board shall issue a denial that shall constitute a final agency decision.
(c) Approval of a request for a hearing shall be signified by issuing a notice as required by G.S. 150B-38(b) and explained in Rule .0507 of this Section.

History Note: *Authority G.S. 90-356; 150B-38; 150B-42;*
Eff. January 1, 2023.

21 NCAC 17 .0507 NOTICE OF HEARING

(a) The Board shall give the party or parties in a contested case a notice of hearing not less than 15 days before the hearing. Said notice shall contain the following information, in addition to the items specified in G.S. 150B-38(b):

(1) the name, position, address, and telephone number of a person from the Board to contact for further information or discussion;

(2) the date, time, and place for a pre-hearing conference, if any; and

(3) any other information deemed relevant to informing the parties as to the procedure of the hearing.

(b) A party who has been served with a notice of hearing may file a written response with the Board in accordance with G.S. 150B-38(d). If the party desires to submit a written response instead of personally appearing at the hearing, the party shall state that desire in the written response, and the Board shall consider the written response in lieu of a personal appearance.

(c) If the party who has been given proper notice in accordance with Paragraph (a) of this Rule neither appears pursuant to the notice nor files and serves a written response as set out in Paragraph (b) of this Rule, the Board shall find the allegations of the notice admitted. The Board may continue the hearing or proceed with the hearing and make its decision based on the evidence presented.

(d) If the Board determines that the public health, safety or welfare requires such action, it may issue an order summarily suspending a license pursuant to G.S. 150B-3. Upon service of the order, the licensee to whom the order is directed shall immediately cease the practice of medical nutrition therapy in North Carolina. The suspension shall remain in effect pending issuance by the Board of a final agency decision pursuant to G.S. 150B-42. However, pursuant to this Rule and Rule .0505 of this Section, a person subject to a summary suspension may request a hearing on whether the public health, safety, or welfare permits terminating or modifying the terms of the summary suspension pending a final agency decision. Neither an order of summary suspension nor a decision on whether the summary suspension order shall be terminated or modified is a final agency decision.

History Note: *Authority G.S. 90-356; 150B-3; 150B-38; 150B-40; 150B-42;*
Eff. January 1, 2023.

21 NCAC 17 .0508 CONTESTED CASES

All administrative hearings shall be conducted by a majority of the Board as set forth in G.S. 150B-40(b) or an administrative law judge designated to hear the case pursuant to G.S. 150B-40(e).

History Note: *Authority G.S. 90-356; 150B-38; 150B-40;*
Eff. January 1, 2023.

21 NCAC 17 .0509 INFORMAL PROCEDURES

(a) Before issuing a notice of hearing, the Board may designate one or more of its members, but in all cases less than a majority of the currently serving members of the Board, to meet informally via one or more conferences with the party or parties and attempt to reach an informal resolution of the dispute or any other matters as may aid in the disposition of the dispute. The designated Board member or members may direct one or more of the following dispositions:

(1) Submission to the Board with a recommendation to dismiss with no action;

(2) Submission to the Board with a recommendation that Board staff provide informal, non-disciplinary guidance to resolve the dispute;

(3) Submission to the Board with a recommendation to resolve the dispute or to expedite the hearing by consent order; or

(4) Scheduling, with appropriate notice, for contested case hearing.

The majority of the Board must approve all recommendations under Subparagraph (1), (2), and (3) of this Paragraph. Each Board member who is designated to serve in this capacity with regard to a party or parties' matter, whether the Board member actually meets with the individual or not, may participate in Board discussions concerning any recommendations made but may not vote upon the recommendation. The Board member or members who participated in the informal conferences shall be disqualified from hearing any contested case when the matter designated for informal resolution is any part of the subject matter of the contested case.

(b) The Board and the party or parties may agree to simplify the hearing by stipulation, or any other method provided by G.S. 150B-41(c).

History Note: *Authority G.S. 90-356; 150B-41;*
Eff. January 1, 2023.

21 NCAC 17 .0510 INFORMAL RESOLUTION

(a) Informal disposition may be made of a dispute, contested case, or an issue in a contested case by any method specified in G.S. 150B-41(c) during the hearing of a contested case.
(b) All recommendations of dismissal must be approved by a majority of the Board.
(c) All matters contained in a consent order, which disposes of a dispute, must be agreed to by the party or parties, and approved by a majority of the Board.

History Note: *Authority G.S. 90-356; 150B-41;*
Eff. January 1, 2023.

21 NCAC 17 .0511 DISQUALIFICATION OF BOARD MEMBERS

(a) Self-disqualification. If for any reason a Board member determines that personal bias or other factors render that member unable to hear a contested case and perform all duties in an impartial manner, that Board member shall voluntarily decline to participate in the hearing or decision.
(b) Petition for Disqualification. If for any reason any party in a contested case believes that a Board member is personally biased or otherwise unable to hear a contested case and perform all duties in an impartial manner, the party may file a sworn, notarized affidavit with the Board. The title of such affidavit shall bear the notation: "AFFIDAVIT OF DISQUALIFICATION OF BOARD MEMBER IN THE CASE OF (name of case)."
(c) Contents of Affidavit. The affidavit must state all facts the party deems to be relevant to the disqualification of the Board member.
(d) Timeliness and Effect of Affidavit. An affidavit of disqualification shall be considered timely if filed 10 days before commencement of the hearing.
(e) A party may file and serve a motion for disqualification less than ten days before or during a hearing only when the motion is based on newly discovered evidence that by due diligence could not have been discovered in time to file a timely motion. Under these circumstances, the hearing shall continue with the challenged Board member sitting. Petitioner shall have the opportunity to present evidence supporting their petition, and the petition and any evidence relative thereto presented at the hearing shall be made a part of the record. The Board, before rendering its final decision, shall decide whether the evidence justifies disqualification. The decision about the disqualification of a Board member shall be made by the other Board members who are not the subject of the disqualification. The Board is not required to grant a new hearing if a Board member is disqualified during the course of a hearing.
(f) The presiding officer, in their discretion, may determine the method of resolving the motion for disqualification under G.S. 150B-40. This may include the authority to direct that the Board's Executive Director oversee an investigation of the allegations and report the findings to the Board.
(g) In the event of disqualification, the disqualified member shall not participate in further deliberation or decision of the case but may be called on to furnish information to the other members of the Board.
(h) If four or more members of the Board are disqualified pursuant to this Rule, the Board shall petition the Office of Administrative Hearings to appoint an administrative law judge to hear the contested case pursuant to G.S. 150B-40(e).

History Note: *Authority G.S. 90-356; 150B-40;*
Eff. January 1, 2023.

21 NCAC 17 .0512 SUBPOENAS

(a) A party shall file and serve a request for a subpoena, attaching a proposed subpoena. The Board may issue the subpoena in accordance with G.S. 150B-39(c). Issued subpoenas must be signed by the Presiding Officer, the Board's Executive Director, the Board's legal counsel, or a Board staff member designated by the Executive Director.
(b) Subpoenas shall be served as permitted by Rule 45 of the North Carolina Rules of Civil Procedure, as set forth in G.S. 1A-1.
(c) After service of the subpoena, the party serving the subpoena shall file and serve sworn proof of the method of service, demonstrating compliance with G.S. 150B-39(c).
(d) G.S. 150B-39(c) governs the recipients' duties in responding to subpoenas. A party to the case or person subject to the subpoena may object to a subpoena. Any objection to a subpoena shall be served on the party who requested

the subpoena simultaneously with the filing of the objection with the Board. Motions to override an objection or quash or modify a subpoena shall be filed in accordance with G.S. 150B-39(c). The Board shall hear and rule on motions to override an objection or quash or modify a subpoena as provided in G.S. 150B-39(c).

History Note: *Authority G.S. 90-356; 150B-39;*
Eff. January 1, 2023.

21 NCAC 17 .0513 WITNESSES
All testimony at the hearing shall be under oath or affirmation and shall be recorded. The presiding officer may exclude witnesses from the hearing room so that they cannot hear the testimony of other witnesses.

History Note: *Authority G.S. 90-356; 150B-42;*
Eff. January 1, 2023.

21 NCAC 17 .0514 FINAL DECISION
In a contested case, the Board shall issue a final agency decision in compliance with G.S. 150B-42. To obtain judicial review, the person seeking review must file a petition with the court in accordance with the provisions of G.S. 150B-45.

History Note: *Authority G.S. 90-356; 150B-42; 150B-45;*
Eff. January 1, 2023.

21 NCAC 17 .0515 PROPOSALS FOR DECISION
(a) When an administrative law judge conducts a hearing pursuant to G.S. 150B-40(e), a "proposal for decision" shall be rendered. The parties may file written exceptions to this "proposal for decision" and submit their own proposed findings of fact and conclusions of law. The exceptions and alternative proposals must be filed within 10 days after the party has received the "proposal for decision" as drafted by the administrative law judge.
(b) Any exceptions to the procedure during the hearing, the handling of the hearing by the administrative law judge, rulings on evidence, or any other matter must be written and refer specifically to pages of the record or otherwise precisely identify the occurrence to which exception is taken. The exceptions and alternative proposals must be filed with the Board within 10 days of the receipt of the proposal for decision. The written exceptions shall bear the notation: "EXCEPTIONS TO THE PROCEEDINGS IN THE CASE OF (name of case)."
(c) Any party may present oral argument to the Board upon request. The request must be included with the written exceptions.
(d) Upon receipt of request for further oral argument, notice shall be issued promptly to all parties designating the time and place for such oral argument.
(e) Giving due consideration to the proposal for decision and the exceptions and arguments of the parties, the Board may adopt the proposal for decision or may modify it as the Board deems necessary. The decision rendered shall be a part of the record and a copy thereof given to all parties. The decision as adopted or modified becomes the "final agency decision" for the right to judicial review. Said decision shall be rendered by the Board within 60 days of the next regularly scheduled meeting following the oral arguments, if any. If there are no oral arguments presented, the decision shall be rendered within 60 days of the next regularly scheduled Board meeting following receipt of the written exceptions and alternative proposals.

History Note: *Authority G.S. 90-356; 150B-40;*
Eff. January 1, 2023.

21 NCAC 17 .0516 DISCIPLINARY COSTS
(a) The Board may recover against a licensee or license applicant, found to be in violation of the Act or rules adopted by the Board, the following costs of disciplinary actions incurred by the Board for the investigation, prosecution, hearing, or other administrative action:
(1) witness fees and statutorily-allowed expenses for witnesses;
(2) direct costs of the Board in taking or obtaining of depositions of witnesses;
(3) costs incurred by reason of administrative or staff time of employees of the Board directly attributable to the action leading to the final decision or order; and

(4) costs incurred by reason of legal fees charged to the Board directly attributable to the action leading to the final decision or order.

These costs may be assessed by the Board pursuant to final decisions or orders of the Board following an administrative hearing pursuant to Article 3A of Chapter 150B of the General Statutes. These costs may also be assessed against a licensee or license applicant for an investigation or action in the nature of disciplinary action, pursuant to the express consent by the person in a consent order approved by the Board.

History Note: *Authority G.S. 90-356; 90-370;*
Eff. March 15, 2023.

21 NCAC 17 .0517 DRUG TESTING AND INTERVENTION

(a) When information of suspected impairment of a licensee is received by the Board, the Board shall conduct an investigation and routine inquiries to determine the validity of the report.

(b) Licensees suspected of impairment may be required to submit to personal interviews if the investigation and inquiries indicate the report may be valid.

(c) The Board shall have authority to compel a licensee to submit to a mental or physical examination, including drug and blood alcohol testing, by physicians designated by the Board, if there is a reasonable suspicion that the licensee is consuming drugs or alcohol to such an extent or with such frequency as to impair the licensee's ability to practice dietetics or nutrition. The cost of examination shall be borne by the licensee being examined. The failure of a dietitian/nutritionist or nutritionist to submit to such an examination when so directed constitutes an admission that the licensee is unable to deliver dietetics or nutrition services with reasonable skill and safety, upon which a default and a final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond the licensee's control. A licensee affected under this Paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that the licensee can resume the competent delivery of dietetics or nutrition services with reasonable skill and safety. Neither the record of the proceedings nor any order of the Board based solely on a licensee's failure to submit to an examination shall be deemed by the Board to constitute a conclusive determination that the licensee engaged in any particular conduct.

(d) Information received by the Board related to a mental or physical examination of a licensee conducted by a licensed health professional shall remain confidential as a medical record but shall be freely exchanged with the Board or its authorized agents, for the purposes of the investigation.

(e) Information gathered shall be used to determine whether the licensee is a chronic or persistent user of intoxicants, drugs, or narcotics to the extent that the same impairs their ability to practice dietetics or nutrition.

(f) The Board may make arrangements for a licensee with impairments to participate in intervention, treatment, and a monitoring program without disciplinary action.

History Note: *Authority G.S. 90-356;*
Eff. January 1, 2023.